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WILLIAM A. MUNDALL
COMMISSIONER

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Commissioner William A. Mundell
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Re: Qwest Rate Case Docket # T 01051B-99-0105

Dear Commissioner Mundell:

I am in receipt of you letter dated October 19, 2000, responding to procedural concerns I have raised in the above referenced docket. I have also read your October 16, 2000 statement, and agree that any rate case should be thoroughly scrutinized – by all parties and the public at large – before considering the merits of any proposed settlement or staff recommendations in this matter.

While there seems to be general agreement among the Commissioners in support of scheduling public comment sessions on the proposed settlement prior to the evidentiary hearing (currently scheduled for November 29, 2000), I am still concerned with the performance of the Utilities Director; specifically, her lack of communication with our offices over her decision to enter into settlement negotiations with Qwest in the first place.

It all boils down to a question of Commission policy, and whether it should be driven by individual Directors or Commissioners themselves. I believe all three Commissioners reached consensus on this issue during a staff meeting, whereby we reaffirmed the notion that staff would leave policy considerations in the hands of the policy-makers (Commissioners). In this particular instance, I am aware of no Commission order, revised statute or rule which suggests Arizona should move from traditional rate-based regulation to one that involves price caps.

This does not mean to suggest that the Commission should not be open to new forms of regulation in today's competitive atmosphere, and although staff does remain an independent party in contested cases, it still must work within the framework of standing Commission policy until given specific direction to do otherwise. Simply put, I think Ms. Scott has put the cart before the horse in negotiating a settlement prior to a full airing of issues before this public body.

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I was disappointed to learn that your office was never conferred with either on whether to engage in settlement negotiations with Qwest. Besides the common courtesy aspect of keeping Commissioners informed before making such procedural decisions, a Commissioner might have good reasons to oppose it. Certainly, Ms. Scott's October 4, 2000 announcement that an agreement in principle between staff and Qwest seemed likely neither afforded us timely notice that negotiations were underway, nor allowed for Commissioner input into the decision itself. In regards to the Qwest rate case pending before us, there certainly are good reasons to see a full rate case – reasons you yourself have echoed several times.

If you recall, the Commission's resolution of Qwest's depreciation schedules earlier this Spring resulted in criticism that the decision gave the company a \$100 million dollar rate increase. During the Commission's Open Meeting discussion on the matter, I predicated my vote on the assurance that – since depreciation schedules are merely a line item figure – the true impact of our decision (No. 62507) would be determined in a full-blown rate case.

You have campaigned around the state on US West/Qwest quality of service issues. You have also been a strong proponent of company investment in rural areas. However, I strongly disagree with your repeated statements that the Commission's decision (No. 62507) in US West/Qwest's depreciation matter has already resulted in a \$100 million dollar rate increase for Arizona consumers. I believe exploring this issue in conjunction with the company's revenues and expenditures is *initially* best accomplished with a rate case (not settlement proposal) evidentiary hearing.

In light of your position that depreciation issues should have been handled in the pending rate case – coupled with the public input you have received concerning the company's 'abysmal' record on quality of service issues – I am surprised that you do not share the same procedural concerns I raised in my October 18, 2000 letter to Ms. Scott and Mr. McNeil. Furthermore, there are still unresolved issues concerning the Commission's duty to not only conduct, but actually use fair value determinations when considering Qwest's rate application.

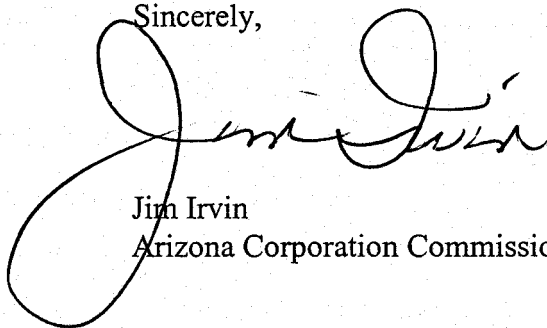
My 'posturing' in this matter is not against you or Commissioner Kunasek, but rather – against a company which one Commissioner (Kunasek) felt was over-earning in 1998, and which another (yourself) feels has not lived up to industry standards for Arizona consumers. In essence, I have done nothing more than follow both your leads, and I resent the double standards applied when it is I who speaks out on behalf of the public interest.

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Nothing contained in this letter should be construed as either supporting or rejecting the settlement proposal currently before the hearing officer. I am confident that all parties will endeavor to supplement the record with respect to the merits of the proposed settlement, and I remain fully open to any resolution which will benefit the public interest. My expressed concerns are of a procedural nature.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Irvin". The signature is fluid and cursive, with a large loop at the beginning and a trailing flourish.

Jim Irvin
Arizona Corporation Commission

Cc: Commissioner Kunasek
Brian McNeil
Deborah Scott
Jerry Rudibaugh
Docket Control